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C O N F I D E N T I A L SECTION 01 OF 03 KATHMANDU 000243

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SUBJECT: NEPAL: MADHESIS STRIKE DEAL WITH GOVERNMENT

Classified By: Ambassador Nancy J. Powell. Reasons 1.4 (b/d).

Summary

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11. (SBU) On February 28, Prime Minister Koirala ended two weeks of on and off negotiations with the three leaders of the United Democratic Madhesi Front by signing an 8-point deal intended to bring agitating Madhesis on board for the Constituent Assembly election. Celebrations ensued across the Terai and in Kathmandu despite few concrete points in the agreement. The Election Commission extended the deadline for proportional candidate lists to March 2 and first-past-the-post lists to March 6, giving the Madhesis and other parties another opportunity to file. Some small parties, which previously filed, may revise their candidate lists to take advantage of the electoral law change from the 8-point agreement which raises the threshold for applying the proportional representation (PR) quotas. Meanwhile, the major parties will have more time to ensure their PR lists meet those quotas.

Parties Reach a Deal

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12. (SBU) On the evening of February 28, Prime Minister G.P. Koirala's cabinet endorsed the 8-point agreement the Prime Minister and the United Democratic Madhesi Front (UDMF) reached earlier that afternoon, paving the way for the UDMF's participation in the Constituent Assembly (CA) election scheduled for April 10. Negotiations had been on and off for two weeks. The Prime Minister, speaking initially in Hindi (note: commonly spoken by Madhesis), announced at a press conference following the signing that the agreement would go into effect immediately. Communist Party of Nepal - United Marxist Leninist (UML) leader M.K. Nepal and Maoist chairman Pushpa Dahal (aka Prachanda) accompanied Koirala. Rajendra Mahato, national chairman of the Sadbhavana Party, Upendra Yadav, central coordinator of the Madhesi People's Rights Forum, and Mahanta Thakur, chairman of the Terai Madhesh Democratic Party -- the heads of the three UDMF parties -- also addressed the press conference with careful optimism, describing the deal as the first step toward a new Nepal. The points of the agreement:

-- provides compensation of one million rupees (USD 15,873) to the families of Madhesi "martyrs" and the release of

Madhesi protesters who were arrested, the latter by February 29;

-- accepts the Madhesi people's call for a Madhesh province ("Madhesh Pradesh") and spells out more details on autonomy in a federal, democratic Nepal;

-- raises the threshold for applying the quota system to proportional representation (PR) candidate lists from 20 percent to 30 percent;

-- insists on proportional representation of disadvantaged groups, including Madhesis in all state bodies, including the security sector;

-- provides that proportional representation of Madhesis and other groups shall be ensured in the Nepal Army;

-- appeals for talks and help to create a peaceful, free and fair environment for the April 10 CA election;

-- binds the Government of Nepal to immediately implement the August 2007 agreement that Peace Minister Poudel signed with the Madhesi People's Rights Forum, including provisions regarding the withdrawal of charges and release from prison of Madhesis; and

-- promises that the UDMF protests will immediately end.

Few Tangible Points and Controversial

13. (C) According to press reports, celebrations ensued

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across the Terai and in Kathmandu in the wake of the signing. Nevertheless, National Democratic Institute Country Director Dominic Cardy pointed out February 29 to the Deputy Chief of Mission that the 8-point agreement contained only three provisions the Government of Nepal could implement before the CA election. They were: giving one million rupees to the families of Madhesi martyrs; increasing the PR threshold to 30 percent; and releasing prisoners. It was still unclear if this would be enough for all the Madhesi agitators to end their protests. Other local observers emphasized that the newly elected representatives in the CA would have the authority to structure a federal Nepal as they saw fit. The 8-point agreement would provide a guideline only. A member of the Tharu community -- the largest "janjati" (indigenous nationality) group in the Terai -- told Emboff the evening of February 28 that he was upset that the deal might trample on the interests of non-Madhesis in the Terai, particularly if Madhesh Pradesh meant one province for the entire Terai and not several Terai states. A few small leftist parties in the governing Six-Party Alliance (SPA) -- Jana Morcha, Nepal Workers and Peasants Party, and the United Left Front -- criticized the agreement for encouraging those who wanted to see the nation "disintegrate" and for being reached without full participation of the SPA.

Now for Logistics: Filing Candidates, Printing Ballots

14. (C) Chief Election Commissioner Bhojraj Pokharel confirmed to the Ambassador February 29 that the Election Commission (EC) had extended the deadline for the filing of PR candidate lists to March 2 and of first-past-the-post lists to March 6, primarily for the Madhesi parties' benefit. However, any of the parties that had previously filed PR lists could also submit revised lists that took into account the increase in the PR threshold to 30 percent. (Note: The new threshold allows parties to avoid ethnic and caste-based quotas if they submit lists with under 100 candidates, up from 66 under the 20 percent threshold. End note.) The EC also indicated that it expected several other parties would take advantage of the new deadlines to file for the first

time. At least one party -- the small, parliamentary Rastriya Janashakti Party -- announced it would now contest the election because of the deal with the Madhesis. According to IFES representative Peter Erben, the U.S.-funded ballot printing could still be completed in-country with the new deadlines -- but just barely.

PR Quotas: Merely a Suggestion?

15. (C) The new deadlines also gives parties time to prepare valid PR lists. According to Cardy, all but one of the 37 parties that had submitted PR lists on February 20 were "massively non-conforming." Cardy remarked with disdain that the major political parties were complaining that they simply could not meet the quotas -- even though they had written the law establishing them. Non-qualifying lists would cause parties to lose PR seats they had rightfully won, if they did not have candidates on their lists who met the quotas. He stated that currently there was no legal provision for alternatively filling these seats -- the seats would simply disappear. No party would be awarded them. The NDI chief estimated that Nepali Congress and the UML would lose approximately 20 seats this way if they did not fix their original lists. The Maoists were in somewhat better shape, Cardy told the DCM. He added that he was concerned the parties would not address the problem until it truly became an issue, after the election.

Comment

16. (C) The immediate result of the Government's 8-point agreement with the United Democratic Madhesi Front was the end of the UDMF's 16-day "bandh" (general strike) in the Terai. This should relieve the fuel shortages and transportation hassles that have put such a severe strain on the country (and on Post's operations). The other result should be a more conducive environment for the Constituent

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Assembly election in the Terai. Celebrations across the southern region indicate that most residents -- people who had been hobbled by demonstrations, clashes, curfews, closed businesses, canceled classes, and scarce commodities -- support the deal and look forward to inclusion in the democratic process. But optimism could be short-lived. The UDMF is not the sole voice of Madhesis, and other groups -- including armed factions -- may attempt to enforce further bandhs. Even Madhesis who support the UDMF may become restless again when they realize the agreement provides them so few tangible benefits. Despite these uncertainties, the election now looks more likely than ever to occur, as scheduled, on April 10.

POWELL